

AMENDED IN ASSEMBLY JUNE 20, 2011

AMENDED IN SENATE MARCH 30, 2011

**SENATE BILL**

**No. 497**

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**Introduced by Senator Rubio**  
**(Principal coauthor: Senator Hancock)**  
(Coauthor: Assembly Member Solorio)

February 17, 2011

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An act to add Article 7 (commencing with Section 10390) to Chapter 2 of Part 2 of Division 2 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 497, as amended, Rubio. Public contracts: state agencies: bid preferences.

Existing law imposes various requirements with respect to contracting by state agencies.

This bill would require a state agency that accepts bids or proposals for a contract for goods, *except for technology*, to provide a preference of 5% to a California business meeting specified criteria. The bill would also require the Department of General Services to establish a process to verify that a business meets the criteria for the 5% preference. *This bill would provide that these provisions may not be construed to require an affected state agency to compromise its immediate mission or ability to function and carry out its existing responsibilities.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. The Legislature finds and declares all of the  
2 following:

3     (a) California faces the most severe economic downturn since  
4 the Great Depression. Over two million Californians are out of  
5 work and California's unemployment rate is one of the highest in  
6 the nation.

7     (b) At a time of scarce state resources, state contracts should be  
8 used to stimulate our state economy and put people back to work.

9     (c) The purpose of this act is to revive local communities by  
10 creating new jobs and stimulating the economy.

11     SEC. 2. Article 7 (commencing with Section 10390) is added  
12 to Chapter 2 of Part 2 of Division 2 of the Public Contract Code,  
13 to read:

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15     Article 7. Preference for Businesses that Employ State Residents

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17     10390. (a) Notwithstanding any other provision, any state  
18 agency that accepts bids or proposals for a contract for goods shall  
19 provide a preference of 5 percent to a California business, as  
20 defined in subdivision (b). The preference shall be provided as  
21 follows:

22     (1) For solicitations to be awarded to the lowest responsible  
23 bidder meeting specifications, the preference to a California  
24 business shall be 5 percent of the bid price of the lowest responsible  
25 bidder meeting specifications.

26     (2) For solicitations to be awarded to the highest scored bidder  
27 based on evaluation factors in addition to price, the preference to  
28 a California business shall be 5 percent of the total score of the  
29 highest responsible bidder.

30     (3) The preferences awarded pursuant to paragraph (1) or (2)  
31 shall not be awarded to a noncompliant bidder and shall not be  
32 used to satisfy any applicable minimum requirements.

33     (4) In order to be eligible for the 5-percent preference authorized  
34 pursuant to this section, a business shall submit all required  
35 substantiating documentation and information needed by the state  
36 agency to determine if the business is eligible for the preference.

37     (b) For purposes of this section, "California business" means a  
38 sole proprietorship, partnership, joint venture, limited liability

1 company, corporation, or other business entity, that holds any  
2 required business license when bids for the public contract were  
3 opened, that has its principal place of business in California, that  
4 would directly provide the goods for the public contract, and that  
5 certifies that at least 90 percent of the business's employees  
6 performing work on the contract are residents of this state.

7 (c) The Department of General Services shall establish a process  
8 to verify that a business meets the criteria for the 5-percent  
9 preference.

10 (d) *For purposes of this section, "goods" shall not include*  
11 *technology, as defined in Section 11532 of the Government Code.*

12 (e) *This section may not be construed to require a state agency*  
13 *to compromise its immediate mission or ability to function and*  
14 *carry out its existing responsibilities.*